IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Civil Application No. 2727 of 2007
Kawadoo & ors v. Sakhubai Kashinath & ors

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr R.B. Raipure, Advocate for applicants
Mr Shiva Khobragade, Advocate for respondents

Coram : A.B. Chaudhari, J

Dated : 10th July 2007

1/ This application has been filed by the applicant for condonation of 212 days delay in filing civil revision application against an order rejecting application for setting aside abatement.

2/ The impugned order was passed on 8.3.2006 and learned counsel for applicants submits that certified copy was applied for on 13.3.2006 and it was received on 13.4.2006. Mr Raipure further submits that after collecting certified copy from his Advocate, applicant no.1 fell ill due to “Chikun Gunia” which disease was largely prevalent in his area. He remained sick till August 2006 and thereafter there were floods and law and order

problem due to certain unfortunate incident.

3/ Mr Khobragade vehemently opposed the application and submitted that if the applicant no. 1 was ill, he could have filed a medical certificate corroborating his sickness, but nothing is filed on record. He then submits that there are other applicants who could have filed revision application within time. To this, Mr Raipure submits that litigation was being looked after by petitioner no. 1 alone and, therefore, other petitioners were not expected to pursue the litigation. He then submits that insofar as medical certificate is concerned, the same is not filed, but he submits that his statement on oath made in the application cannot be disbelieved in absence of specific denial on affidavit by any of the respondents.

4/ Having heard the learned counsel for the parties and having regard to the fact that the litigation is in respect of a plot coupled with the fact that the impugned order pertains to refusal to set aside abatement, I do not find any reason to disbelieve the statement on affidavit by the applicant furnishing reasons for condonation of delay in filing revision petition. Merit of the dispute has not yet been decided by the Appellate Court.

5/ For all these reasons, I condone the delay caused in filing civil revision application. Civil Application allowed. No costs. Civil Revision Application be registered. Office to proceed.

Judge.

hsj